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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,418	03/23/2004	Ryszard Szczepanik	1272.12-0003	3852

27367 7590 05/09/2008  
WESTMAN CHAMPLIN & KELLY, P.A.  
SUITE 1400  
900 SECOND AVENUE SOUTH  
MINNEAPOLIS, MN 55402-3319

EXAMINER
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NATALINI, JEFF WILLIAM

ART UNIT	PAPER NUMBER
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2831

MAIL DATE	DELIVERY MODE
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05/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,418	<b>Applicant(s)</b> SZCZEPANIK ET AL.	
	<b>Examiner</b> JEFF NATALINI	<b>Art Unit</b> 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/07 has been entered (the RCE was filed 2/26/08).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bakhtiari et al. (5886534 and Bakhtiari hereinafter) in view of Gupta (3852743).

In regard to claims 1 and 2, Bakhtiari discloses an apparatus and method of generation and homodyne detection substantially as claimed comprising:

providing electrical paths each having an equal value, the electrical paths between a shunt arm in a waveguide T- connection (i.e. matched hybrid coupler) and a generation diode in one collinear arm [col. 6, lines 51-60] and a detection diode in another collinear arm [col. 6, lines 60-66] such that signals from a microwave antenna

that both radiates to and receives signals reflected from an moving objects [i.e. fabric, paper and plastic] (Figs. 1 and 2; col. 4, lines 3-8, 56-58 and 65-67).

Bakhtiari did not expressly disclose: such signals being used to provide instantaneous position and shift information of mobile objects.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bakhtiari, as evidenced by Gupta.

Gupta discloses a homodyne Doppler radar system for detecting targets having: such signals being used to provide instantaneous position and shift information of mobile objects (Fig. 1; col. 3, lines 34-41).

Given the teaching of Gupta, a person having ordinary skill in the art at the time of the invention would have readily recognized the desirability and advantage of modifying Bakhtiari by employing the well known or conventional features of radar, such as disclosed by Gupta, in order to increase the detection sensitivity and provide relative target information in the Bakhtari device.

In regard to claim 3, Bakhtiari discloses an apparatus and method of generation and homodyne detection comprising:

where signals from the single microwave antenna are received by the waveguide T- connection (i.e. matched hybrid coupler) [col. 6, lines 54-58].

### ***Response to Arguments***

4. Applicant's arguments filed 12/27/07 have been fully considered but they are not persuasive. Applicant argues that Gupta, which discloses Dopplar radar, does not

detect instantaneous position and velocity such as vibrational movement. The 'vibrational movement' is not part of the claim language and thus is not valid in distinguishing the claimed invention from the prior art. Gupta, which discloses Dopplar radar discloses, in column 3 lines 34-41, determining the instantaneous position and velocity, there is very little delay if any to determining the current position of an object. Radar, which is still used today by aircraft towers, determines instantaneous (at that moment) velocity and position, and is used by aircraft towers to avoid collisions.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFF NATALINI whose telephone number is (571)272-2266. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Gutierrez/  
Supervisory Patent Examiner, Art Unit 2831

/Jeff Natalini/  
Examiner, Art Unit 2831